

HON. POWHATAN ELLIS,  
OF MISSISSIPPI.

PERKINS LIBRARY

Duke University

Rare Books

## HON. POWHATAN ELLIS, OF MISSISSIPPI.

We deem it not inappropriate to ask the readers of the Messenger, to turn for a time from the exciting events of the day, and recall the memory of one who, for many years, occupied a high public position, and by his services, his sense of justice and honor, his patriotism, courtesy, and dignified deportment, secured for himself the general confidence and respect. Within the last week, the Hon. Powhatan Ellis, of Mississippi, has passed from the scenes of earth. He was a native of Amherst county, Virginia, the youngest son of the late Major Josiah Ellis, of Red Hill, in that county, and died at the former residence of his brother, the late Mr. Charles Ellis, of this city, in the seventy-fourth year of his age.

Leaving Washington College, Virginia, in a rebellion with some forty other students, after having been there three years, he went to Princeton, New Jersey, but being denied admission in consequence of his rebellious withdrawal from Lexington, he proceeded to Dickinson College, Pennsylvania, where he graduated in September, 1810. His father having died a short time previously, on his return to Amherst, he spent the winter at home, but in the spring of 1811, went to Staunton, to read law with Mr. Jacob Kinney, who had a class of six or eight students under him. In the fall of the same year, he went to Williamsburg to attend the law lectures of Judge William Nelson, remained there until the ensuing spring, when he went to Prince Edward Court-House to read law, during the summer, with Mr. Henry E. Watkins, at the same time attending in the clerk's office, with the view to acquaint himself with forms and practice—returned to William and Mary in the fall, and passed through the second course of law lectures—which for a short time previous to the death of Judge Nelson, in March, 1813, was conducted by Chancellor Robert Nelson, of Yorktown. Besides the law course, he attended the political and philosophical lectures of Bishop Madison, president of the college. The pres-

ent Judge Richard H. Field, of Culpeper, and the Hon. John Nelson, of Baltimore, afterwards Minister to Naples, and Attorney-General of the United States, were his classmates and messmates at William and Mary. At the close of the law course, Judge Field and himself were licensed together, Chancellor Nelson, Judge Henry Coulter, and Judge William H. Cabell signing the license of each. Judge Ellis went to Lynchburg to commence his practice. He had been there but a short time when the British threatening an attack on Richmond, the Governor issued a proclamation, directing volunteers to repair to the seat of government and report; whereupon, he immediately sallied out, attended by fife and drum, himself bearing a flag, beating for recruits through the streets of the town. A volunteer rifle company had been before partially organized. In twenty-four hours after the receipt of the proclamation, this company was completely organized and equipped, and was the first, from an equal distance, to report upon the Capital Square. The officers were William Radford, Captain; Samuel Anthony, Lieutenant; Samuel J. Wiatt, Ensign. Judge Ellis served as a private. The company remained in Richmond until discharged by the Executive. On its return to Lynchburg, a reorganization took place; Samuel J. Wiatt being elected Captain, Powhatan Ellis Lieutenant, and Paulus A. E. Irving, Ensign. On the 22d of June, 1814, they were ordered into service. They immediately repaired to Richmond, descending James river in batteaux, and were ordered to Norfolk. There they remained until peace was proclaimed, in February, 1815. The troops at Norfolk, under the command of Brigadier General Peter B. Porter, numbered about 13,000. Among them were six or eight companies of riflemen, with a separate encampment and separate line of sentinels, attached to the regular army, under Colonel John Pegram, and intended to operate with artillery. Circumstances threw the command of

the Lynchburg company principally upon Lieutenant Ellis, and the drills were frequently attended by the general and his staff. Such was his military bearing and spirit on all occasions that in January, 1815, when the Legislature determined to organize a State corps, and for that purpose made choice of Robert B. Taylor and Armistead T. Mason, as Major Generals, and John H. Cocke, Charles F. Mercer, David Campbell and John W. Green, as Brigadier Generals, General Taylor recommended Lieutenant Ellis to the Executive, in strong and handsome terms, for a commission as Major.

It has been ascertained that in August, 1814, when the British fleet appeared in Lynhaven Bay, a council of war was held on board the flag ship, and an opinion given in favor of an attack upon the troops near Norfolk. Admiral Cochrane was himself opposed to the attack, and after obtaining a reconsideration of the advice given, ultimately weighed anchor, and went up the Chesapeake to the attack of Washington and Baltimore. The friends of Judge Ellis have often heard him speak of the disappointment of General Porter's troops at this circumstance, and their vehement indignation when they heard of the vandalism of the enemy in burning the Capitol and archives of the nation.

After the war he resumed the practice of his profession in Lynchburg, and remained there until April, 1816. During that time he was promoted to the captaincy of his favorite company of rifles, the number and efficiency of which were greatly increased by him. He commanded it indeed with deciaed eclat. It was while he commanded this company, in November, 1815, that General Jackson passed through Lynchburg, on his journey from Tennessee to Washington; everywhere the most distinguished attentions were shown him! no where was a more patriotic enthusiasm evinced than in Lynchburg. The rifles having gone out beyond the town to meet and escort him as he came in from Bushy Forest, attracted the marked attention and compliment of the old hero, who rode on horseback by the side of Mr. Jefferson (both of them superb horsemen), and Captain Ellis being one of the managers at the dinner given on that occasion by the corporation, was standing

by Mr. Jefferson's chair, when Mr. Jefferson gave the beautiful toast, which has been so often quoted: "Honor and gratitude to those who have filled the measure of their country's honor."

Before leaving Williamsburg, Judge Ellis had formed the plan of practicing his profession about a year in Virginia, and then removing to the Southwest, most probably to Natchitoches, in Louisiana. Early in 1816, General Jackson passed through Lynchburg again, on his return home. In a conversation with him, Judge Ellis was led to state his plan of leaving Virginia, when the General was kind enough to manifest an interest in it, proffering him his assistance, and giving him letters of introduction to some of his acquaintances in the western country. Among those who were kindest in also furnishing him letters and subsequently cheering him in his course, was Wilson Cary Nicholas, Governor of Virginia from 1814 to 1816.

In company then with young Moseley, a personal friend, and a son of Gen. William Moseley, of Bedford, at one time Treasurer of the Commonwealth, and father-in-law of his old captain, William Radford, he started in April, 1816, to seek his fortunes in the valley of the Mississippi. Traveling on horseback, they rode first into Kentucky, through Abingdon, as far as Beane's Station—turned then to the Crab Orchard, and visited Stanford, Danville, and Lexington. In Lexington they were joined by William C. Preston (who had been a student with him at Washington College), and by two sons of Patrick Henry—John and Winston—one of whom had been with him at the same college, and the other with his elder brother Thomas, at Hampden Sydney. These sons of Mr. Henry were distantly related to him; their mother being a Shelton, and his mother, Jane Shelton, the daughter of Richard, who was a cousin of Mrs. Henry, and both descended from that Captain Shelton, of the Royal Navy, whose ship, the "Coronation," composing a part of the grand fleet assembled by the English, Spanish and Dutch, under Admiral Russell, to meet the French under Count Tourville, foundered at sea, in a violent equinoctial storm off Plymouth, in 1691, when he and all his company except a very inconsiderable number perished.



These young men rode together to Corydon, in Illinois, where the Territorial Convention was sitting, preparatory to the admission of that State into the union. Moseley and himself, leaving their friends there, descended the Mississippi in a flat boat, or "Broad Horn," together with Mr. Charles B. Green, a wealthy and well educated planter from the neighborhood of Natchez; Mr. James Railey, afterwards also a wealthy planter of Mississippi, and ever a devoted friend of Judge Ellis, Dr. Cochrane, who became a successful practitioner of medicine in New Orleans, and Mr. James Garrard, who succeeded General Shelby as Governor of Kentucky, and was eight years Governor of that State—from 1796 to 1804. Mr. Green had with him about fifty negroes, whom he was taking out to one of his cotton estates. As they traveled only during the day, "tying up" at night, they were thirty days on the river—from the 1st of July to the 1st of August. The Judge then being very athletic and active, it was fine sport for him to jump out on the sandy shores and sand bars and wrestle with Railey or Moseley, or practice with his rifle at a mark, or passing game.

David Holmes was at that time Governor of Mississippi Territory. Judge Ellis had letters of introduction to him and although when he left Virginia it was his expectation to settle in Natchitoches, on the Red River, he was induced by him and others to make trial of Natchez, first, however, visiting Natchitoches. Not being familiar with the civil law, he commenced by reading a course of that law, as well as the territorial statutes, in the office of Mr. Christopher Rankin, U. S. District Attorney, a gentleman to whose friendship he became much indebted, and whose many noble qualities won from him a lasting regard. In the following year, the Convention was held, which organized the State government, and Governor Holmes, being thereto duly authorized, in September, 1817, appointed him a Judge to fill a vacancy in one of the courts, until the State should be admitted into the Union. At the first session of the Legislature, four Judges were elected for the State—each had a separate and distinct circuit—and the four together composed the Supreme Court of Errors and Appeals. Judge Ellis was one of these, having

been elected by a vote of 27 out of 32—those who voted against him alleging as their sole reason, that he had not resided sufficiently long in the State. His circuit was the southern, extending to the bay of St. Louis, and including a large portion of the original French and Spanish population. It was exceedingly interesting to hear him speak of the habits of those people at that day, their local customs, prejudices and traditions, and of the incidents of his journeys, as he and the lawyers practising before him, traveled on horseback from court to court, through a region in its primitive state, but thinly settled, and partly occupied by Indians—many of whom became his warm friends. Among these he often mentioned Greenwood Leflore, one of the three principal chiefs of the Choctaws, a man of decided ability and force of character, after whom the town of Greenwood and Point Leflore lately become prominent in the military operations on the Tallahatchie, were named. He knew also and had been the guest of such men as Folsom and Tippe-na-homo, of the Choctaws, and Tish-a-mingo, McGilvery and Colbert, of the Chickasaws.

In September, 1825, he was appointed by Governor Leake to fill a vacancy in the Senate of the United States, created by the resignation of ex-Governor Holmes, who had been a second time elected Governor of the State of Mississippi. He took his seat a few days after the opening of the session in December. The term for which he was appointed, subject to legislative confirmation, did not expire until March, 1827. When the election came on, before the Legislature late in the winter of 1825-26, he was beaten by Mr. Thos. B. Reed, after a very close contest, the vote having been tied for several days, but finally Mr. Reed obtained a majority of two. Judge Ellis, however, continued to serve until Mr. Reed appeared and was qualified, on the 11th of March, 1826. In August, 1826, the elections came on for members of the Legislature. The question of the Senatorial election was one of the tests among the candidates, and when this election came on for the new term, at the session of 1826-27, Judge Ellis beat Mr. Reed by a large majority. This was an election for six years, commencing the 4th of March, 1827. He

served five years, when he was appointed by General Jackson to succeed Judge Peter Randolph as Judge of the United States for the District of Mississippi. He presided in the District Court from the beginning of the full term of 1832 to the close of the spring term of 1836, when he was appointed by General Jackson *Charge d'Affaires* to Mexico. He remained in Mexico until the last of December, 1836, when he came home under instructions from the President. And on the 9th of March, 1837, was appointed by Mr. van Buren *Envoy Extraordinary and Minister Plenipotentiary* to Mexico. He did not, however, proceed on that mission until March, 1839, from which time he remained in Mexico until April, 1842. After his return to the United States, he held no official position, though he was frequently called before the public by his connection with the Democratic party, with which he uniformly acted.

During the twelve years that he sat upon the bench, his conduct as a Judge was marked by a faithful attention to the duties of the station, an inflexible zeal for the administration of justice, the preservation of the public peace, and the avoidance of those delays which often weary the law-abiding suitor. Whenever it was possible, consistently with right, to extend favors, they were invariably extended, but when this could not be done, all parties were rigidly compelled to a proper obedience. At one term of his court, when the revulsions of the "Flush Times of Mississippi" had brought him a very heavy docket, he disposed of nearly 400 cases. When he left the bench, it was with the regret of a large mass of the virtue and intelligence of the people.

The first credentials of Judge Ellis as a Senator were presented and he took his seat on the same day with Judge Hugh L. White, of Tennessee. He found then in the Senate Mr. Holmes, of Maine, distinguished among his contemporaries for wit, sarcasm, and readiness; Judge Woodbury, of New Hampshire, equally learned and laborious; Mr. Robbins, of Rhode Island, eminent as a classic; Mr. Van Buren, of New York; Governor Dickerson, of New Jersey; General Sam Smith, of Maryland; Littleton W. Taxewell and John Randolph, from Virginia; Nathaniel Macon, of North

Carolina; Mr. John Gaillard, so often and so long president, *pro tempore*, of the Senate, and his eloquent colleague, Robert Y. Hayne, of South Carolina; Judge Berrien, of Georgia; Colonel R. M. Johnson and Judge Rowan, of Kentucky; General Eaton, of Tennessee; General Harrison, of Ohio; Johnston, of Louisiana; King, of Alabama; Benton, of Missouri. Subsequently there came in Webster, and Clay, and Calhoun, Tyler, McLane, Frelinghuysen, Forsyth, Grundy, Livingston, Marcy, Dallas, Mangum, Troup, and others, the master-spirits of this country in their time. It was an honor to have been the cotemporary, enjoying, as he did, the association and friendship of such men, in a select body of forty-eight, exercising high functions of government, upon a theatre which then, and before and long afterwards, attracted the talent, the patriotism, the high spirit and the lofty ambition of the first and best of a powerful and prosperous nation. That very period, too, saving the dissolution of the Union, is perhaps the most memorable in the annals of the old government. The sessions extending from '25 to '32, both inclusive, were replete with important measures. The Mission to Panama, the Occupation of the Oregon River, the Suppression of Piracy, the Abolition of Imprisonment for Debt, the Graduation, Sale and Distribution of the Public Lands, the Removal of the Indians, Internal Trade with Mexico, Internal improvements, the Recharter of the Bank of the United States, the Tariff which brought on Nullification, the Veto Messages of President Jackson, were among the questions which arose, involving national issues; to say nothing of the "Reception of General Lafayette," the "Assault on the President's Secretary," the "Breach of Privilege," the "Impeachment and Trial of Judge Peck," and other questions, more or less weighty, which gave rise to exceedingly able and interesting debates in Congress.

Possessed of but few if any, of those brilliant qualities, whose rare assemblage the world calls genius, yet possessing what we must admit to be far better, a sound judgment, a resolute purpose to pursue the right, and a capacity to gather wisdom from experience, Judge Ellis bore at least a useful and an honorable part in the elevated

position he then occupied. In the appointment of the standing committees, which was by ballot, he was assigned, at different times, to those on Public Lands, Indian Affairs, and Post Offices and Post Roads—whose duties involved the consideration of questions most nearly affecting the interests of his State. One of his first acts was to obtain an appropriation of a sum of money for the repair of the post road between Jackson and Columbus, running through the Indian country, over which the State of Mississippi had no control; the object being to put the road in such a condition *that the mail might be transported in covered carriages to Natchez and New Orleans!*" At the same session he introduced a bill, which was passed, to enable the President of the United States to hold a treaty with the Choctaw and Chickasaw nations of Indians. A majority of the Mingoes, leaders, captains, and warriors of those nations, were, as he knew, opposed to the policy of removal, but under the operation of this bill a delegation of their own people was sent to view the lands west of the Mississippi, which it was proposed to exchange with them for their lands east of that river, and upon the report of this delegation a treaty was ultimately made, providing for the extinguishment of the Indian titles to all lands within the limits of the State of Mississippi; a policy by which not only the perishing consequences to the Indians, of a near connection with a white population have been avoided, but they have received in fair and willing exchange, a country suitable for their purposes, unexceptionable in every respect, and secured to them by the most ample and solemn sanctions; they have received pay for their former improvements—been transported to their new homes free of cost—and aided, protected, and encouraged ever since their removal; in fine, tested by time, it has proven itself a policy which has effectually tended to the preservation, improvement, and happiness of the Indians; while it has relieved one of our finest sister States from an inexpressible embarrassment, and left her free to perform, as she has done, and is nobly doing, her part in the maintenance of Southern rights, privileges, and preference.

His sagacity was shown on another

occasion during his Senatorial career. In 1803, the United States acquired Louisiana, and with it an open question of boundaries for that vast province. On the side of Mexico upon the west, and of Florida upon the east, this question was to be settled with the King of Spain; on the north and north-west with the King of Great Britain. In 1818, it was settled with Spain by our acquiring Florida—taking a boundary on the west which gave away Texas. The acquisition of Florida was a desirable object, and had been long properly sought; but the treaty by which it was accomplished has been regarded as a great oversight on the part of the Southern States. In the strong language of Colonel Benton—"The new boundary, besides cutting off Texas, dismembered the Valley of the Mississippi, mutilated two of its noblest rivers, brought a foreign dominion (and it non-slaveholding) to the neighborhood of New Orleans, and established a wilderness barrier between Missouri and New Mexico—to interrupt their trade, separate their inhabitants, and shelter the wild Indian depredators upon the lives and property of all who undertook to pass from one to the other." Mr. John Quincy Adams, Secretary of State, was the negotiator and ostensible author of this treaty; but he afterwards stated on the floor of the House of Representatives, that in fixing the boundary he had been governed by the vote of a majority of Mr. Monroe's cabinet, who were Southern men. The treaty was signed on the anniversary of the birth of Washington, was sent to the Senate the same day, and unanimously ratified the next day with the general approbation of the country, and the warm applause of the newspaper press. It is interesting at this day to advert to the reasons of Mr. Monroe, a Southern President, and the majority of his cabinet, Southern men, for pursuing such a policy. What were they? There was a repugnance, we are told, in the eastern portion of the Union, [New England], not merely to territorial aggrandizement in the South and Southwest, but to the consequent extension of slavery in those quarters; and, *to allay that repugnance, and prevent the slavery extension question from becoming a test in Presidential elections, Southern men, in acquiring Florida,*



*gave away Texas—refusing, absolutely, to include within our limits as much territory as Spain offered!\** Though the treaty was ratified with such unanimity on our side, Spain hesitated, delayed, and finally suffered the time limited for the exchange of ratifications, to expire. New negotiations were then entered upon, which resulted in the ratification by Spain of the former treaty, but this not being within the time originally prescribed, it became necessary to submit it again to the American Senate, which was done in the session of 1820-21. It was ratified a second time, and almost unanimously, but not quite, four votes being given against it, and all by Western Senators. In the meantime, Mexico, (of which Texas was an integral part), ceased to belong to Spain. She proclaimed her independence, repulsed all Spanish authority, and continued successfully to resist the mother country; in consequence of which no Spanish commissioners could go to Texas to join those of the United States in running and making the new boundary. The government of the United States then undertook to establish the boundary with Mexico herself. This was done by treaty in the year 1828, *adopting the boundaries previously agreed upon with Spain.* Upon the question of ratifying the treaty with Mexico, only three Senators voted in negatively, namely: Colonel Benton, of Missouri; Judge William Smith, of South Carolina (afterwards tendered an appointment on the Supreme Court by Mr. Van Buren), and Judge Ellis, of Mississippi. This Texas was the country which the United States got back in 1848 at the expense of a war and a hundred millions of dollars.

The celebrated Sunday Mail Report, of the Committee on Post-Offices and Post Roads, to which had been referred various petitions remonstrating against the transportation and delivery of the mails on the Sabbath, was made while Judge Ellis was a member of that committee. The report was presented by Colonel R. M. Johnson, as chairman, but it was written by Amos Kendall—though the leading ideas were suggested

by Mr. Calhoun, and it was revised and corrected by the Rev. Mr. Brown, a clerk in one of the departments, who was a man of talents and a good writer.

Great issues, as we have said, were before the country when he was in the Senate. The national legislation was dangerously complicated by some of them, bringing the two parts of the double system, State and Federal, into serious disagreement, and threatening to compromise their harmonious action. It is not to be expected that any man, however conscientious, exact and careful in the performance of public duties, could pass through such a period without heated opposition and strong crimination. Judge Ellis experienced his share of partisan enmity and aspersion. He was especially brought into almost constant variance with the last of his colleagues, the Hon. George Poindexter, who, having been successively Delegate, Representative, Governor and Senator of Mississippi, had much influence at home, and being a man of decided talents, skilful in debate, and well versed in politics, had a corresponding influence with the opposition party, to which he belonged in Congress. Nevertheless, Judge Ellis, on his retirement, was welcomed by many gratifying manifestations of respect and confidence among those who knew him best. A public meeting, said to have been the most numerous and respectable that had ever been witnessed on a similar occasion in Natchez, was held there, at which such gentlemen as Fontaine Winston, Esq., the Lieutenant-Governor, Col. Chotard, Mr. R. M. Gaines, Capt. J. B. Nevitt, Dr. Cartwright, and others, were appointed "a committee of congratulation to wait upon Judge Ellis, to convey to him the sentiments of this meeting, to shake him by the hand, and to bid him welcome to the State which he alone has truly represented in the Senate, to assure him of the high estimation entertained for him by a large majority of his constituents; to express their entire approbation of his political course in the Senate; to inform him that his political friends have not forsaken him, but that his independence, firmness, and political integrity amidst the storms of faction which raged around him have drawn them closer to him; and likewise to invite him to partake of a public entertainment at as

\*Mr Preston said of this act—"We threw away a gem that would have bought ten Floridas."



early a day as would suit his convenience." At the public entertainment subsequently given, the regular toast proposed in his honor was in these words: "Our distinguished guest, the Hon. Powhatan Ellis—In private life, of spotless reputation; in public life, an able and faithful representative in the councils of the Republic. We say to him in sincerity and truth: Well done, thou good and faithful servant, receive the reward due to fidelity from faithful Mississippians."

One of his traits as a public man ought not to be passed in silence. While he coveted high-toned, honorable popularity, and received the plaudit, "well done, thou good and faithful servant," as a recompense for the honest performance of duty more highly appreciated by him than any other earthly consideration, no man of equal prominence ever perhaps vexed the public less with his own praise or used the newspapers less as heralds of his movements and actions.

Judge Ellis' first mission to Mexico was one of more than usual delicacy and importance. Mr. Edward Livingston, no less distinguished as a diplomatist than a jurist, who had then but recently returned from France as Envoy, and who from having been Secretary of State, and previously a Senator, was well acquainted with the foreign relations of the country, in a letter which he wrote to Judge Ellis, expressed the opinion that it was the most important of all missions of the United States at that day. Commencing immediately after the battle of San Jacinto, which had resulted in the defeat of the Mexican army and the capture of General Santa Anna, their general-in-chief, and the President of their Republic, when the whole Mexican mind was poisoned with hatred toward the government and people of the United States, it was no easy task to soothe the irritation, avert new aggressions and injuries, and at the same time secure payment for many claims, amounting to nearly two millions of dollars, and satisfaction for numerous insults, which had long formed the subject of correspondence between the two governments. Gen. Jackson did not forget on this occasion his cardinal principle of foreign policy, to ask only what is right, and submit to nothing wrong. Under his instructions, a de-

mand was finally made in the most formal manner, for the adjustment of all pending questions, which not having been complied with in a given length of time, Judge Ellis withdrew from Mexico, bringing the archives of the legation with him. Mexico having subsequently made satisfaction for the insults complained of, and sent a special Minister to Washington, who entered into a treaty providing for the payment of all claims of citizens of the United States, Judge Ellis went out upon his second mission, which in its turn became complicated, not only by repeated occasions for new demands of a similar nature, but also and especially because of the famous Santa Fe expedition. From the beginning to the end, however, he omitted no opportunity and relaxed no effort to obtain the good will of our neighbor, protect our national respectability, and secure us from designed aggression—and it is believed that the United States have rarely had a Minister abroad who commanded more fully than he did the respect and esteem, not less of the government to which he was accredited, than of the government whose agent he was. His conduct and his correspondence were equally marked by firmness, dignity, courtesy, and the strictest regard to justice and propriety.

The amount of labor in the legation at Mexico was excessive; yet it was performed with an assiduity, system and thoroughness which elicited the commendation of the Department and of the Commission constituted for the adjudication of claims under the convention of April, 1839: the Commissioners, on the part of the United States, being Governor Marcy of New York, and Judge Rowan of Kentucky, and the accomplished linguist and scholar, Mr. Alexander Dimitry, now of this city, being their secretary.

It is curious to speculate upon the consequences of the conduct of a single individual. Judge Ellis was tendered the appointment of Charge d' Affaires to Mexico, about the first of April, 1835, to succeed Mr. Butler, who had asked and obtained leave to return home. Texas had then only reached the confines of that struggle in arms which resulted in her separate independence. The revolutionary spirit had, indeed, three years previously, shown itself in the affairs of Anahuac and Velasco, and

other proceedings, on the part of the colonists, hostile to the Mexican Government. But tranquillity had been apparently restored by the election of General Santa Anna to the Presidency, and the supposed triumph with him of the Constitution of 1824. Colonel Austin was then in the city of Mexico, charged with the presentation of the memorial of the Convention of San Felipe, peaceably urging the constitutional right of Texas to be admitted into the Confederacy as a State separate from Cohahuila. In short, it was more than six months before the appointment of a "Committee of Safety" in Texas, before any of those "Texas meetings" were held in the United States for the purpose of providing help for those who were regarded as brothers though residing beyond our national boundary, and before the first battle was fought, at Gonzales, in support of State sovereignty, and against centralism and the despotic power of Santa Anna.

In a conversation with the President and Secretary of State (Mr. Forsyth) soon after the appointment was tendered him, Judge Ellis suggested that if, after the arrival of Mr. Butler, it should appear to them desirable or proper that that gentleman should return to Mexico, it would be entirely agreeable to him that such an arrangement should be made. Mr. Butler arrived in Washington not long after this conversation, and upon his suggesting that he was on the eve of completing a treaty which had cost him much trouble, it was deemed proper to authorize his immediate return, with a view to its completion. Mr. Butler spent some time with his friends in South Carolina, and when he started on his return to Mexico, instead of proceeding by the usual southern route from New Orleans to Vera Cruz, travelled overland in a private conveyance, from Arkansas to the city of Mexico, a journey of 1,400 miles, passing through Texas, without the Government at Washington having the least intimation of his purpose to do so. It is probable that he wished merely to satisfy himself, by personal observation and association, of the true condition of affairs in Texas, and the value of that territory, which he knew his Government desired to acquire. However this may be, much precious time was thus lost.

General Cos had not only then set out, at the head of a large body of disciplined troops, to enforce the decrees of the National Congress, under the orders of Santa Anna, but news of the action at Gonzales, and the capture of Goliad, which preceded the surrender of Cos at San Antonio de Bexar, must have reached the capital about the time that Mr. Butler arrived there. Worse than this. During the month of March, 1835, an act had passed the Congress of Cohahuila and Texas, providing for the sale of the enormous quantity of four hundred leagues of the public domain, to a small company of private adventurers, at a price grossly disproportioned to its true value. The law, it is believed, originated in fraud, and the Congress was shamefully imposed upon by those who obtained its enactment. The Mexicans, always suspicious, took up the impression that Mr. Butler was concerned in this transaction, and that the object of his journey through Texas was both as an adventurer, to look after his interest in lands, and an emissary, to instigate revolution. His influence, as a diplomatic representative of the United States, was of course at an end. Who shall say that if Judge Ellis had gone out as was intended in the early spring, under the instructions which General Jackson was prepared to give, and did afterwards give, authorizing the negotiation for a boundary "from the eastern bank of the Rio del Norte to the thirty-seventh degree of latitude, thence along that parallel to the Pacific," and placing at his disposal ten millions of dollars for the purpose of satisfying Mexico, he might not have obtained from the sagacious, avaricious, unscrupulous Hero of Tampico—in the then exhausted condition of the Mexican treasury—the cession of that greatly coveted region—thus bringing into the Union Texas, which had been given away, and all West of the Rio Bravo, including Upper California.

A conspicuous proof of his firmness and justice was given on the occasion of the capture of the Santa Fe expedition. Upon the facts before him, he came to the conclusion that this expedition was a military and hostile invasion of Mexico, and that those citizens of the United States who had taken part in it, had no right to claim the protection of their Government. He,

therefore, refused to make any demand upon the Mexican Government in their behalf. This gave rise to grievous complaints on the part of the sufferers, and to a great clamor among their friends and others in the United States. His sympathies were, indeed, strongly enlisted for the sufferers; he knew some of them personally, and entertained friendship for the families and friends of others; and he liberally contributed, of his private means, for their comfort and relief, and officially, and unofficially, used his utmost endeavors to mitigate the severity of their treatment. In particular, he urged upon the Mexican Government, that while the Government of the United States was disposed to maintain, with strict fidelity, amicable relations with the Mexican Republic, and would not attempt to screen from merited punishment any of their citizens who might be guilty of an infraction of the laws intended to preserve those relations yet that summary, sanguinary, or undue punishment of either Texans or citizens of the United States, in Mexico, would inevitably tend to excite and foment, in this country, an acerbity of feeling against Mexico, which would be much more apt to defeat the supposed objects of those punishments than if the offenders were to have a fair trial, and, if then convicted, were to be punished in some proportion to their offences.

This course, on the part of the Minister did not fail to make its proper impression upon the Mexican Government; and accordingly, soon after the arrival of the prisoners in Mexico, when Judge Ellis had an audience for the purpose of presenting his letter of recall, the President, General Santa Anna, as a testimonial of respect, and an acknowledgment of the friendly sentiments inspired by his course, especially in reference to the Santa Fe prisoners, placed in his hands an order for the liberation of a number of those unfortunate men. Among those thus liberated were Franklin Coombs, a son of General Leslie Coombs, of Kentucky, and George Wilkins Kendall, the well-known editor, auditor, and traveller, of New Orleans.

Judge Ellis' residence, in the superb city of Montezuma, was attended with much interest, social and political. He witnessed more than one of those revo-

lutions, disorders, and strifes, which have contributed so largely to deprive our sister Republic of that "peace and happiness, truth and justice, religion and piety," without which there can be no solid safety, honor or welfare for any people. During the *pronunciamiento* of the Federalists, in July, 1840, he was placed in an embarrassing position. The troops under Urrea, belonging to the garrison, at midnight, took possession of the palace, surprised the guard, and made the President, General Bustamente, a prisoner. The President's private secretary, Colonel Alexander Yhary, a Greek by birth—who had entered Mexico with Mina's expedition, in 1817, long suffered imprisonment in the loathsome dungeons of San Juan de Ulloa, and fought gallantly on various occasions as an officer in the Mexican service—was a frequent visitor at the house of the American minister, and came to be regarded by him as a personal friend. Making his escape from the palace, at the time the president was arrested, knowing that there prevailed on the part of the insurgents, a feeling of jealousy and vindictiveness towards him as a foreigner, and wholly at loss to determine what to do in the sudden and unexpected dilemma which then presented itself, he determined to ask the protection of the flag of the United States. It seemed but a repetition of the memorable incident in Mr. Poinsett's mission, when Madame Yturrigaray, flying before Zavala's troops, implored him to protect her; and as in that case, so in this, the protection was promptly and generously given. The captive president was released on the second day, and the day following was rejoined by his faithful secretary; and after twelve days' fighting, they returned to their apartments in the palace, the public tranquility having been restored. After this incident, the president frequently came, attended by Colonel Yhary, to visit Judge Ellis in a friendly and informal manner.

The diplomatic corps at that day in Mexico, consisted of Mr. Parkenham, the English minister, who was afterwards in Washington; Baron de Cyprey, the French minister, who had succeeded Baron Defaudis, whose demands brought out the squadron under Admiral Baudin and the Prince de Joinville; Baron Von Gerolt, now and for a



number of years past Prussian minister in Washington; Baron de Norman, Belgian; and Don Angel Calderon de la Barca, of Spain, twice minister at Washington, whose talented and very accomplished wife has given so pleasing a description of "Life in Mexico, during a residence of two years in that country." Mr. Brantz Mayer was, for one year, Secretary of the American Legation, and inscribed his book, which he afterwards wrote, entitled "Mexico as it Was and as it Is," to his friend, Judge Ellis. Among the often received and acceptable guests of our minister, were Mr. William Maclure, in early life a resident of this city, afterwards a confidential agent and correspondent of Mr. Jefferson, in Europe, and honorably known as long the President and benefactor of the Academy of National Sciences, at Philadelphia, Dr. Antommarchi, the surgeon who was chosen by Cardinal Fesch to attend upon Napoleon, at St. Helena, who was present at his death, and opened his body after death; and Mr. Egerton, an English artist—a landscape painter, of eminence, who was murdered in the most horrid manner, with his lovely young English bride, as they were taking an evening walk from their pretty residence at Tacubaya.

In stature, Judge Ellis was six feet, two inches; he weighed about two hundred and ten pounds. His limbs were well proportioned, his carriage and manner elevated; his whole deportment dignified and comely; his features regular, forehead expansive, and head finely developed. Mrs. Trollope, in her "Black Book," pronounced him "the handsomest man in Congress." Certainly, in his diplomatic uniform, and by the side of the Mexicans, who are generally small, he was a remarkably fine looking man. Without laying too much stress upon mere appearance, however, we may say, that being commanding in person, habitually attentive to dress, and scrupulous in the observance of the established forms of polite society, there was displayed in him a union of dignified complaisance and kindness at once pleasing and refined.

In the year 1833, he was married to Miss Eliza Rebecca Winn, of Washington, D. C., daughter of Mr. Timothy Winn, formerly a purser in the United States Navy. Her mother was a daughter of Benjamin Gasker Dulany, of Shu-

ter's Hill, near Alexandria, Virginia, and a sister of the late Commodore Bladen Dulany of the U. S. Navy. He had only two children—a son, who died in infancy, and a daughter, now surviving him. The death of his wife in the spring of 1835, was one of the reasons which induced him to consent to go abroad. She possessed rare beauty, grace, and accomplishment, united with singular sweetness of temper, and a highly cultivated taste. The late Major James Gibbon, a great admirer of female beauty, on seeing her at a bridal entertainment given to her in this city, remarked, that she was the most lovely woman he had ever seen—except her mother.

While greatly devoted to the State of his adoption, in which he so long resided, and which gave him so many proofs of confidence and approval, he nevertheless, at all times, turned with peculiar love to his native soil. To breathe the bracing air of Piedmont, Virginia, to drink the pure, cool, delicious water of the spring from which he drank when a boy, to look upon the mountain slopes of the Tobacco Row, and the Blue Ridge, where he had often camped in deer hunt, was an exquisite relish and enjoyment. One of the subjects which most interested him a few months previous to his death, was an effort to acquire the old homestead of his father and his grandfather, which, to his great regret, some years since, passed out of the family. He thought to make it a resting place for himself and the balance of his days. Alas! life, its homes and its scenes, on this side of the grave, are closed to him forever.

The departed we cannot recall, but we may preserve his memory, and it will be well if, in many respects, we follow his example. It is no mean epitaph to write of one who was forty-five years a public man, that he was virtuous—that whenever tried, he proved himself a safe depository of trust and power—that from the day he assumed the responsibilities of a man, even to that when the shadow of death was flitting before his eyes, he was in all his conduct firm, courteous, honorable—and that while in ability he claimed not to rank with many of his illustrious cotemporaries, there was, perhaps, not one of them whose respect he did not command in a high degree, and who would not say of him, "honor



and gratitude to the man who has per- credit to himself, his friends and his  
formed his whole part in life with country."

Richmond, Va., March 25, 1863.

This biographical sketch of  
Senator Ellis was written by  
his nephew, Thos Ellis, and appear-  
ed at the time of his death in the  
Southern Literary Messenger, a  
Magazine published in the City  
of Richmond, Virginia

The enclosed Copy is procured  
from Miss Fanny Winford,  
a grand niece of Senator Ellis

R. T. Daniel





~~11006~~